

**ASSEMBLY BILL**

**No. 145**

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**Introduced by Assembly Member De Leon**

January 22, 2009

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An act to add Section 34510.5 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 145, as introduced, De Leon. Motor carriers: construction transportation brokers.

(1) Existing law requires the Department of Motor Vehicles to regulate the safe operation of specified vehicles, including commercial motor vehicles and trailer and semitrailer commercial vehicle combinations owned and operated by motor carriers. Existing law also requires every motor carrier of property to comply with specified safety, permit, and liability insurance regulations. A violation of these provisions is a crime.

This bill would require a construction transportation broker, as defined, who agrees to transport or haul intrastate construction materials for another person or entity and who dispatches, hires, employs, or engages the services of a subhauler, as defined, to perform all or part of the agreement to furnish the construction transportation or hauling services, to enter into a specified written agreement with the subhauler and comply with specified safety, recordkeeping, and insurance requirements.

The bill would also make a violation of these provisions a misdemeanor and would subject the violator to a fine. By creating new crimes, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 34510.5 is added to the Vehicle Code,  
2 to read:

3 34510.5. (a) The Legislature finds and declares that  
4 construction transportation brokers are in a unique position to  
5 protect the motoring public by ensuring that the safety provisions  
6 of this code, which impose safety regulations on motor carriers,  
7 including, but not limited to, BIT safety inspections pursuant to  
8 Section 34501.12, drug and alcohol testing pursuant to Section  
9 34520, the necessity of a motor carrier permit under Section 34620,  
10 and liability protection under Section 34631.5, are complied with  
11 prior to the commencement of any construction work.

12 (b) "Construction transportation broker," as used in this section,  
13 means a person or entity that agrees to transport or haul intrastate  
14 construction materials for another person or entity and as part of  
15 the performance of that transportation or hauling agreement,  
16 dispatches, hires, employs, or engages the services of a motor  
17 carrier to perform all or part of that agreement. The term  
18 "construction transportation broker" also includes any motor carrier  
19 who dispatches, hires, employs, or engages another motor carrier  
20 to perform all or part of the construction transportation or hauling  
21 services that the motor carrier has agreed to render for a  
22 construction transportation broker.

23 (c) "Subhauler," as used in this section, means a motor carrier  
24 that is dispatched, hired, employed, or engaged by a construction  
25 transportation broker to perform all or part of the construction  
26 transportation or hauling services that the construction  
27 transportation broker has agreed to render.

28 (d) "Construction transportation or hauling services," as used  
29 in this section, means the for-hire hauling, transporting, or moving  
30 of rock, sand, dirt, asphalt, and gravel, or any other aggregate

1 material, as defined in subdivision (d) of Section 23114, to, from,  
2 or on the site of the construction project by a motor carrier.

3 (e) A construction transportation broker that dispatches, hires,  
4 employs, or engages a subhauler shall not furnish construction  
5 transportation or hauling services unless he or she enters into a  
6 written agreement with the subhauler that contains all of the  
7 following:

8 (1) The name, address, and phone number of the broker and the  
9 subhauler.

10 (2) All contract terms of the agreement including, but not limited  
11 to, the agreed upon price, term of engagement, and site location.

12 (3) Written documentation, attached to the agreement, that shows  
13 that the subhauler is in compliance with all of the following:

14 (A) Has a valid motor carrier permit pursuant to Section 34620.

15 (B) Is currently enrolled in a drug and alcohol testing program  
16 as required pursuant to Section 34520.

17 (C) The Biennial Inspection of Terminals Program (BIT)  
18 required pursuant to Section 34501.12.

19 (D) Adequate protection against liability as required pursuant  
20 to Section 34631.5.

21 (f) A construction transportation broker shall maintain the  
22 records of each written agreement required under subdivision (e)  
23 for a minimum of two years.

24 (g) A construction transportation broker subject to this section  
25 shall maintain nonowned and hired commercial auto insurance  
26 coverage in the same amounts as the coverage required of motor  
27 carriers against liability pursuant to Section 34631.5.

28 (h) (1) A construction transportation broker who furnishes  
29 construction transportation services in violation of subdivision (e)  
30 or (g) is guilty of a misdemeanor and subject to a fine in the amount  
31 of two thousand dollars (\$2,000) in addition to any other penalties  
32 established by federal or state law. Each agreement with a  
33 subhauler that fails to comply with subdivision (e) shall constitute  
34 a separate violation.

35 (2) A construction transportation broker who fails to maintain  
36 records required pursuant to subdivision (f) is guilty of a  
37 misdemeanor and subject to a fine in the amount of one thousand  
38 dollars (\$1,000) in addition to any other penalties established by  
39 federal or state law.

1 SEC. 2. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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